

Remarks

Applicants respond herein to each of the issues raised in the Office Action. Applicants appreciate the thorough examination of the present application and the indication of allowable subject matter in Claims 12, 14, 16, 19-21, 23, 28-38 and 46-47. Applicants submit the present application is in form for allowance for the reasons discussed below.

Independent Claims 12, 14, 16, 23, 28 and 46 Are in Form For Allowance:

Independent Claims 12, 14, 16, 23, 28 and 46 have been amended to independent form above, including incorporating various of the recitations of the claims from which they previously depended. Accordingly, Applicants request allowance of these claims in light of the indication in the Office Action that these claims contained patentable subject matter. Applicants request allowance of the claims depending from these claims at least based on their dependence from a patentable independent claim.

The Section 102 Rejections

Claims 1-6, 17-18, 24-26 and 39-45 stand rejected as anticipated under 35 U.S.C. § 102 by United States Patent No. 6,424,781 to Puetz *et al.* ("Puetz"). Office Action, p. 2. Claims 25 and 27 stand rejected as anticipated under 35 U.S.C. § 102 by EP1160603A1 to Overmeir ("Overmeir"). Office Action, p. 3. As an initial matter, Applicants note that the anticipation rejections based on Overmeir are obviated by the amendments above. Applicants submit that the remaining anticipation rejections should be withdrawn at least as Puetz does not disclose an interconnect cabinet or method including a splitter as recited in independent Claims 1 and 39. Claims 1 and 39 have been amended to make the distinction between a splitter and a splice tray even clearer in light of the Office Action's failure to distinguish between splitters and splice trays.

Independent Claim 1 recites:

An interconnect cabinet for optical fibers, comprising:
an enclosure;
a splitter mounted in the enclosure **that is configured to optically couple a plurality of optical fibers to a single optical fiber** and having a plurality of optical fiber connectorized pigtails extending therefrom, each of the

connectorized pigtails being **optically coupled by the splitter** to an optical fiber feeder cable to be coupled to a central office;

a termination panel mounted in the enclosure and having a plurality of optical fiber connection members, ones of which are associated with respective subscriber locations; and

wherein the connectorized pigtails have a cable length sufficient to allow connection to the plurality of connection members.

Applicants submit that at least the highlighted recitations of Claim 1 are not disclosed by Puetz.

In rejecting Claim 1, the Office Action asserts that Puetz teaches "splitter (splice trays 46, part of 44) mounted in the enclosure having a plurality of optical fiber pigtails." Office Action, p. 2. Thus, the rejection itself states that it is relying on a splice tray 46 to disclose a claimed splitter. However, as stated in the highlighted portion of Claim 1 above, the splitter "is configured to optically couple a plurality of optical fibers to a single optical fiber." While splices are generally required for a splitter, a splice tray need not include a splitter. In fact, Puetz merely states that each "splice tray 46 includes structure for holding the ends of a plurality of fiber optic cables, and for holding individual splices between the ends of the cables." Puetz, Col. 4, lines 32-34. Based on an electronic search at the USPTO website, Applicants can find no reference to a splitter in Puetz or even in the application 09/158,182 (United States Patent No. 6,215,938) cited in Puetz as showing example splice trays. Puetz, Col. 4, lines 35-38. Accordingly, the rejection of independent Claim 1 should be withdrawn for at least these reasons.

Independent method Claim 39 also recites a splitter that "is configured to optically couple a plurality of optical fibers to a single optical fiber." Accordingly, the rejection of independent Claim 39 should also be withdrawn at least for reasons similar to those discussed above with reference to Claim 1. The claims depending from Claims 1 and 39 should be allowed at least based on their dependence from an allowable base claim.

The Section 103 Rejections

Claims 1, 7-11, 13, 15 and 22 stand rejected as obvious under 35 U.S.C. § 103 in light of Overmeir and further in view of the asserted knowledge of one of ordinary skill in the art.

Office Action, p. 4. Applicants respectfully submit the rejected claims are allowable at least as Overmeir does not disclose or suggest the recitations of the claims and cannot be combined with the asserted knowledge in the manner relied on in the rejections.

To establish a *prima facie* case of obviousness, the prior art reference or references when combined must teach or suggest *all* the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. See M.P.E.P. § 2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. See M.P.E.P. § 2143.01(citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)). As emphasized by the Court of Appeals for the Federal Circuit, to support combining references, evidence of a suggestion, teaching, or motivation to combine must be clear and particular, and this requirement for clear and particular evidence is not met by broad and conclusory statements about the teachings of references. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). In another decision, the Court of Appeals for the Federal Circuit has stated that, to support combining or modifying references, there must be particular evidence from the prior art as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

Furthermore, as stated by the Federal Circuit with regard to the selection and combination of references:

This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." W.L. Gore v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983). Thus, the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion.

In re Sang Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002). As discussed in further detail below, Applicants submit that the Office Action has failed to establish a *prima facie* case of

obviousness as the cited references do not disclose or suggest each of the recitations of the claims and a proper motivation to combine the references in the manner cited in the claims has not been established.

With regard to the rejection of Claim 1, the Office Action asserts that Overmeir teaches, among other things, "a splice chamber (16) with connectorized pigtails." Office Action, p.4. However, the splice unit 16 of Overmeir is merely described as "for housing splice connections between incoming fibers" shown as a "splice 29." Overmeir, Para. 26. Accordingly, the rejection of Claim 1 based on Overmeir should be withdrawn for substantially the same reasons as discussed above with reference to the rejection of Claim 1 over Puetz.

The dependent claims are patentable at least based on the patentability of the claims from which they depend. In addition, various of the dependent claims are separately patentable. For example, Claim 7 recites a splice chamber in addition to the splitter of Claim 1 from which it depends. The rejection appears to rely on the splice unit 16 of Overmeir as disclosing both the splitter and the splice chamber. Applicants submit that, even if the splice unit 16 could properly be considered to disclose the splitter of Claim 1, it cannot also then be considered as disclosing the splice chamber and Claims 7-11 are also separately patentable for at least these reasons.

The Office Action further cites to the minimum bend radius protector 25 of Overmeir as the "cable securing member" of Claims 10-11 and 13. Office Action, p. 4. However, there is no indication in Overmeir that optical fibers, nonetheless optical fiber cables, are secured to the protector 25, they merely wrap around the protector 25. Overmeir, Para. 27. Accordingly, Claims 10-22 and 13 are also separately patentable for at least these reasons.

Claim 8 has been amended to include recitations as containing patentable subject matter with respect to originally presented Claim 16. Accordingly, Claim 8, and Claims 9-10 depending therefrom, are also separately patentable for the reasons Claim 16 was found to contain patentable subject matter in the Office Action.

Claim 40 has been amended to recite that ones of the connectorized pigtails are "directly" connected to ones of the connection points. In contrast, the Puetz reference cited in the Office Action describes use of patch cables to connect different fibers. Puetz, Col. 4,

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lines 5-7. Accordingly, Claim 40 is also separately patentable for at least these additional reasons.

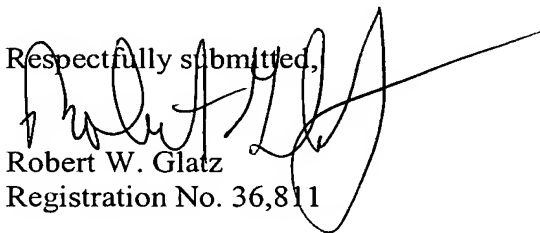
The Newly Added Claims Are Patentable:

Newly added Claim 48 includes recitations related to backsides of the connection members being associated with respective subscriber locations while front sides of the connection members are configured to receive connectorized pigtails extending from a splitter so that respective subscriber locations can be selectively optically coupled to an optical fiber feeder cable. Neither Puetz nor Overmeir disclose or suggest such an arrangement of an interconnect cabinet for optical fibers. Accordingly, Claim 48 and Claim 49 that depends therefrom are patentable for at least these reasons. Claim 49 is also separately patentable based on the first and second splice module recitations therein.

Conclusion

In view of the above, Applicants submit that the pending claims are in condition for allowance and respectfully request allowance of the present application. If further informalities are noted, the Examiner is encouraged to contact the undersigned by telephone to expedite allowance of the present application.

Respectfully submitted,


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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA, 22313-1450, on August 17, 2005.

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